



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 31 दिसम्बर, 1983/10 पीष, 1905

हिमाचल प्रदेश सरकार

LABOUR DEPARTMENT

NOTIFICATION

Shimla-2, the 9th December, 1983

No. 2-8/83-Lab(Dup).—In exercise of the powers vested in him under section 17(1) of the Industrial Dispute Act, 1947, the Governor, Himachal Pradesh is pleased to publish the award of the H.P. Labour Court, Shimla-2, hereunder:—

BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH

Case No. 40/82

Shri Madhu Sudan

Versus

Petitioner.

M/s Thirani Chemicals (P) Ltd. Paonta Sahib

Respondent.

PRESENT: Shri Dhani Ram A.R. of the Petitioner.

Shri S.D. Mohan, Industrial Law Advisor and Shri R.K. Sharma, Production Manager,
of the Management.

AWARD

The workers of the Thirani Chemicals Private Ltd., Paonta Sahib went on strike and the services of the union leader Madhu Sudan was terminated. A reference *vide* notification No.8-27/78-Sharm, dated the 17th September, 1982 was made to this Court. It is to be determined as to whether the strike of workers is legal and also whether the services of Madhu Sudan have been validly terminated or not. If not to what relief Madhu Sudan is entitled to.

Both the parties put in their claim petitions. The issues were framed on 28-2-1983.

The parties has arrived at a settlement. The written settlement deed has been filed in this Court and is *Ex.* at P-1. I have recorded the statements of the Authorised Representatives of the parties. I am satisfied that this settlement is a lawful settlement.

On the basis of this settlement, I find no justification to continue these proceedings. The reference is answered accordingly. The services of Madhu Sudan were terminated but he has accepted a sum of Rs. 2,000 (Rupees two thousands only) in lieu of all his claims relating to and arising out of his retrenchment. The other workmen who had gone on strike will not suffer any break in service for the strike period. The reference made to this Court needs no further consideration and action by this Court. The parties are left to, bear their on costs of these proceedings.

Announced on the 19th day of October, 1983.

Sd/-
(S. S. KANWAR),
Presiding Officer,
Labour Court.
Camp at Una (H.P) 19-10-1983.

**BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH
SHIMLA**

Case No. 44/83

Shri Sarwan Singh *Ex-Guard*

Applicant/Petitioner.

Versus

Managing Director/Secretary, Himachal Worsted Mills Ltd., Nalagarh

Respondents.

PRESENT: Shri P. L. Bery, A.R. of the applicant.

Shri R. P. Chauhan, Security Inspector, A.R. of the Respondent.

AWARD

The services of the Petitioner have been terminated by the Respondent management. He has challenged his termination. A reference has been made by the Government *vide* notification No. 8-15/80-Sharm-Vol.II, dated 28-4-1983 and copy of which has been received in this Court. Notices to the parties were issued. The workman has filed the claim petition. He was employed as Security Guard in the Respondent Management. The Respondent Management has filed the reply and has stated that the Petitioner/applicant was a previous convict as was revealed from the police report. His previous conviction was recorded on 4-7-1964 by the Additional Session Judge, Ambala.

I have recorded the statements of the parties before the framing of issues. The services of the Petitioner/applicant have been terminated because of his previous conviction.

According to the statements of the Petitioner after the alleged conviction dated 4-7-1964 he has joined the Armed Forces on 5-12-1964 and have retired on pension because of disability on 29-7-1977.

From the statement of Shri R. P. Chauhan, Security Inspector A.R. of the Respondent Management, it is clear that no domestic enquiry has been held against the Petitioner and the applicant has not been given an opportunity of being heard. If he had been heard he could very well explain his position and his previous conviction, which might not be for an offence not involving moral turpitude.

As no domestic enquiry in accordance with the Standing Orders governing the condition of service of the Petitioner has been held by the Respondent Management, the termination of services is bad in law and can not be upheld. I therefore, answer the reference made to this Court by the Government *vide* notification referred to above accordingly. The services of the Petitioner has been terminated illegally and without any justification. The order terminating his service is liable to be quashed and is hereby quashed. The Petitioner will be deemed to be in service during the period after the termination of services i.e. on 25-8-1980. He is entitled to all the service benefits including pay and other allowances and other service benefits as if he had been in continuous service. However, I may make it clear that if the Respondent Management is advised to hold the domestic enquiry against the Worker/Petitioner, they may complete it in accordance with the Standing Orders Governing the condition of service of the Petitioner. No order as to costs of these proceedings.

Announced on the 16th day of October, 1983.

Sd/-
(S. S. KANWAR,) *Presiding Officer,*
Labour Court.
Camp at Nalagrah: 16-10-1983.

**BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH
SHIMLA**

Case No. 44/82

Sarvshri Balbir Singh and Karam Chand

..Petitioner.

Versus

M/s Himachal Wool Processors, Ltd. Nalagarh, District Solan, Through its Technical Director, Shri D.N. Nandy

.. Respondent.

PRESENT: Shri P. L. Bery and C.R. Tanwar A.Rs., of the Petitioners.
Shri P. D. Sharma A.R., of the Respondent.

AWARD

The services of Shri Balbir Singh and Karam Chand Workmen of the Respondent Management have been terminated. A notification have been issued on 24-9-1982 for a reference being made to this Court to find out whether the termination is valid or not and what amount of compensation they are entitled to.

The services of Balbir Singh were terminated *vide* order dated 14-1-1982 on the ground of insubordination, gross mis-conduct willful damage to production and for provocation to the

other workers for stopping the work. This mis-conduct relates to an incident which occurred in-side the factory premises on 14-1-1982.

The services of Karam Chand have been terminated *vide* Order dated 6-7-1982 on the ground of causing intentionally damage to the machine inside the factory on which he was working on 18-10-1981.

A joint reference with respect to termination of services of Balbir Singh on 14-1-1982 and Karam Chand on 6-7-1982 should not have been made. There is absolutely no reasons between the two charges against both the workmen. The charge of misconduct arise out of different incident. Separate references should have been made. The term industrial dispute has been defined in section 2(k) as under in the Industrial Dispute Act, 1947:—

Section 2 (k)

“Industrial dispute” means any dispute or difference between employers and employees or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, or any person,”.

A reference about the industrial disputes can be made to this Court under section 10 of the Industrial Dispute Act, 1947. The bare perusal of these provisions in the Industrial Dispute Act shows that the industrial dispute covering one subject and including one set of employees can be referred to in one reference to this Court. Two disputes covering two different set of workmen having no reasons between them can not be made the subject matter of one reference. The workers and the management may be at variance with each other on a number of points and if both the parties are directly interested in the disputes, these may form the subject matter of one reference but not otherwise.

In the present case a great inconvenience and hardship has been faced by the parties on the trial of the issues. Both Balbir Singh and Karam Chand have different set of witnesses to be examined. There were absolutely no reasons between the two disputes. To avoid this difficulty, I have recorded evidences with respect to Balbir Singh and Karam Chand separately and I to deal with them separately one by one. I have mentioned the fact simply to highlight the difficulties being faced by the parties during trial. I hope such like references will not be made to this Court in future and the provision of Industrial Disputes Act will be kept in view.

As regards Balbir Singh it may be stated that no domestic enquiry was held against him, that no charge-sheet was served, no witnesses were examined and that the provision of Standing Orders governing the service condition of the applicant and principle of natural justice have been contravened.

In reply to the allegation, the Respondent Management has stated that no enquiry has been held nor it should have been held in the circumstances of this case.

With respect to Karam Chand it has been stated by the Petitioner Workman that he has been victimised because of his being an active Trade Union Leader. He was the Cashier of the employees Union of Nalagarh unit. He has stated that the machine on which he was asked to work on 18-10-1981 had already been reported to be defective. It is alleged that the dust had accumulated and as a result of this accumulation this machine could not be put in operation and that when he was asked to work on that machine it went out of order and some parts of machinery were broken. The Respondent Management has controverted this plea. It has been alleged that the machine was intentionally damaged by the workman because of dispute raised by the Union and that a proper enquiry was held and it was held that the damage to the machine was caused by Karam Chand.

The workman has filed replication wherein they have controverted the pleas of the respondent management.

From the pleading of the parties, the following issues arose and have been framed by me on 19-12-1982.

1. Whether the order dated 14-1-1982 terminating the services of Shri Balbir Singh Petitioner is in accordance with Standing Orders of the Company and is legal and justifiable OPR.
2. Whether the orders dated 6-7-1982 dismissing Karam Chand Petitioner is in accordance with the Standing Orders of the Company is legal and justifiable. OPR.
3. Relief.

FINDINGS

Issue No. 1.—In order to prove this issue, the Respondent Management examined Jagtar Singh Sandhu RW-1. He has only stated that on 14-1-1982 Balbir Singh was reported against when he had refused to work on machine card No. 6. When he was asked to operate the machine he used abusive language against his superior and because of this conduct his services were terminated. He has further stated that no enquiry what so ever to his knowledge was held against Balbir Singh.

From the evidences on record it appears that no domestic enquiry against Balbir Singh had been held and he had not given an opportunity to defend himself for alleged refusal to work on 14-1-1982. The provisions of Standing Orders as well as principle of natural justice have been contravened. Balbir Singh can not be condemned on heard. He had not been given proper chance to defend himself and explain his position as to why his services can not be terminated. The termination order is bad in law.

I therefore, held that termination of services of Balbir Singh is not in accordance with the provisions of Standing Orders and Industrial Disputes Act, 1947 and this termination is set aside and quashed. The result is that Shri Balbir Singh will be deemed to be in service inspite of termination of services on 14-1-1982. He is entitled to all the service benefits to which he is entitled to had his services not terminated. I may further clarify that in case the Respondent Management even now is of the view that a domestic enquiry should be held against the misconduct of Balbir Singh, they may do so under the provision of Standing Orders and Industrial Disputes Act, 1947.

Issue No. 2.—The Respondent Management has examined Brig. B. C. Chauhan RW-2 and Jagtar Singh Sandhu RW-3. They have tendered in evidence Ex.R-1 to R-6, RW-3 Jagtar Singh has stated that he is the Deputy Spinning Master in the factory. He was present on 18-10-1981 inside the factory and was on duty. According to him at about 4.20 P.M. he heard a big thund and went out to the machine floor to find out the reasons for the same. According to him machine card No. 6 was found badly damaged. At that time Karam Chand Petitioner and Bhura Ram were working. Karam Chand Petitioner was the condencerman and as such he was responsible for the smooth running of the machine. On examination he found that the card clothing was very badly broken. The brackets, transfer roller, worker stripper, card clothing of the doffer were damaged and the sub-setting was disturbed. From the extend and nature of damage, this witness was of the firm view that this machine had been intentionally damaged and it was the result of sabotage. Jagtar Singh Sandhu RW-3 thereafter informed the Project Engineer and the Chief Security Officer who came inside the factory at about 7.30 P.M. and inspected the damaged machine. This witness had been cross-examined at length but nothing had been brought out to discredit him. I fail to understand as to why this witness should make a wrong statement against Karam Chand Petitioner.

Brig. B. C. Chauhan RW-2 has corroborated the statement of Jagtar Singh Sandhu RW-3. He has also been cross-examined at length but nothing had been brought out favouring the Petitioner.

The documents Ex. R-1, R-2 and R-6 also substantiate the action taken by the Respondent Management against Karam Chand Petitioner. Ex-R-5 and R-6 is in fact the Enquiry Report made by Hardev Singh. This report shows that an enquiry was held to find out as to how the machine Card No. 6 was damaged on 18-10-1981 and whether Karam Chand is responsible for this damage. The perusal of Enquiry Report shows that Karam Chand was served with charge-sheet. Witnesses were examined. Karam Chand was given opportunity to defend himself and to examine witness Hardev Singh have not been examined by the Respoondent Management but has been examined by the Petitioner as PW-1. He has stated that he hold the enquiry and had given opportunity to the petitioner to defend himself and that he had submitted the report of enquiry which is Ex.R-5 and R-6. I have gone through this report and the statement made by Hardev Singh Ex-PW-1. I find that the enquiry has been properly hold and proper opportunity given to the Petitioner. PW-1 has stated that he adjourned the enquiry *sine-die* on 26-12-1981 and thereafter made the report. The Authorised representatives of the Petitioner has contended that as the enquiry was adjourned *sine-die*, the report is invalid the simple fact that the enquiry has been held *sine-die*, does not cause prejudice to the Petitioner. He has not made out any case or any grievances that his interest have suffered because of this adjournment. From the person who hold the domestic enquiry the accuracy of the proceedings by the Court cannot be expected. The Petitioner has not been able to make out any case in his favour and to show that the principle of natural justice has not been obeyed during the enquiry.

Much capital has been made out by the Petitioner that there is entry in the log book to the following effect:—

“Polish Card No. 6 remained stopped from 4 P.M. to 12 Midnight due to breaker set fancy bracket broken and cylender filled damaged by a jamm from under casing”.

Sd/-
(RAMPHAL)
Assistant Foreman
18-10-1981.

This log book has not been produced and I asked the management to show the log book. The log book was produced in this Court after arguments. The authorised Representative of the Petitioner has also seen it. There is the above entry in the log book. But this entry in the log book does not help the Petitioner at all. Ramphal, Assistant Foreman who has made his entry and who was Incharge of the Shift at the relevant time has not been examined by the Petitioner. During the enquiry he was examined. The entry made in this log book does not show that machine card No. 6. had not been intentionally damaged or that it stopped for reasons otherwise than sabotage. The jamm from the undercasing can be caused by sabotage. The Petitioner has not been able to explain as to how this entry in the log book helps him.

Karam Chand Petitioner has not appeared as a witness for the reasons best known to him. He has examined Madan Lal PW-2, Narata Ram PW-3 and Bhura Ram P W-4. These witnesses have tried to make out a case that machine card No. 6 was not working properly in the earlier shift as well and report was made to the Shift Incharge. Karam Chand Petitioner when asked to operate the machine, said that it is not in working order but inspite of that he was directed to operate the machine and when he started the machine it broken down. The statement given by these witnesses, in the absence of the statement of the petitioner cannot be acted upon. Karam Chand, Petitioner could come in the witness box and make a statement and in that event whatever he stated in the presence of these witnesses could be held to be proved. The Petitioner

whose statement is being proved by those witnesses had not entered the witness box and the statement of witnesses examined by the Petitioner cannot be helpful. Moreover, such like statement as made by the witnesses of the Petitioner can be easily made without any fear of contradiction. No reliance can be placed on such like witnesses and such like statement.

From the evidence on record it is amply established that the Machine Card No. 6 was intentionally damaged and this was not damaged because of the negligence of the management in keeping the machine in good running condition. A proper enquiry has been held against the petitioner and the enquiry Report Ex-R-5 and R-6 and the other documents R-1 to R-4 clearly shows that the Management has observed the provisions of Dysfnfnh Orders and gave proper opportunity to the Petitioner to defend himself. I see no infirmity in the proceeding held by the Enquiry Officer and his report. I decided this issue accordingly in favour of Respondent Management and against Shri Karam Chand petitioner.

The authorised representative of petitioner has argued that the punishment imposed on the petitioner is sever and it should be reduced and that any other punishment than the termination of services be imposed on him. I am not inclined to reduce the punishment in the present case. The petitioner was to work on the machine for the benefit of the Respondent Management and to earn his own livelihood but he has broken that very machine. I think the petitioner does not deserved to be dealt with leniently.

Relief.—The reference made to his Court may be answered. This termination of services of Balbir Singh is not justifiable and the same is quashed. Balbir Singh will be deemed to be in service with effect from 14-1-1982, inspite of the termination of his services. He is entitled to all the service benefits.

As regards Karam Chand, I answer that the termination of services is valid and proper. The parties are left to bear their own costs of these proceedings.

Announced on the 17th day of October, 1983.

Sd/-
(S. S. KANWAR),
Presiding Officer,

Labour Court (Camp at Nalagarh). 17-10-1983.

BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH
SHIMLA-2.

Case No. 2/82

Sanjeev Kumar Conductor

...Petitioner.

Versus

Regional Manager, Himachal Road Transport Corporation, Nahan

...Respondent.

Present:—Sanjeev Kumar

...Petitioner.

M. L. Vaidya Regional Manager, Himachal Road Transport Corporation,
Nahan.

AWARD

Shri Sanjeev Kumar was employed as a Conductor by the Regional Manager, Himachal Road Transport Corporation, Nahan on 8-3-1977. Originally he was employed on daily waged basis. The Service of the Petitioner was regularised w. e. f. 1-9-1979 when he was put on probation for a period of two years. This period of probation was to come to amend on 31-8-1981.

However, the services of the petitioner were terminated *vide* order dated 12-8-1980. The main ground for the termination of his services was: "his suitability was reviewed by the undersigned who has come to the conclusion, his work and conduct are not at all satisfactory and his further retention in service is not in the interest of Himachal Road Transport Corporation."

Shri Sanjeev Kumar has challenged the termination of his services. According to him, the dispensing with his services by the Regional Manager, H. R. T. C. Nahan his retrenchment pure and simple and that this retrenchment is illegal and void.

A reference has been made to this Court *vide* notification No. 8-14/80-Shram dated the 23rd December, 1981 and the following question has been referred:—

"Whether the termination of service of Shri Sanjeev Kumar Conductor by the management of Himachal Road Transport Corporation, Nahan is in order and justified. If not, what relief and amount of compensation Shri Sanjeev Kumar is entitled to."

The parties were summoned and they have filed their claim petitions. From the averments of the parties, the following issues arose and had been framed by me on 12-6-1982.

1. Whether dispensing with the services of the petitioner by the General Manager/ other authority of the Respondent is invalid, illegal and un-enforceable ?
2. Whether the Petitioner is entitled to any amount, if so, what?
3. Relief.

FINDINGS

Issue No.1.—Shri Sanjeev Kumar had appeared as PW-1 and also tendered in evidence documents Ex-P-1 to P-3. His oral statement only gives history of his services. Ex-P-1 is the order terminating his services. Ex-P-2 is another order passed by the Regional Manager, Himachal Road Transport Corporation, Nahan. This deals with the appointment of Sanjeev Kumar Petitioner who figures at S. No. 2 and other persons. Sanjeev Kumar was appointed as a Conductor on 1-9-1979 and his name appeared at S. No. 2 in order of seniority. Ex-P.3 is another order passed by the Regional Manager, H. R. T. C. Shri Sanjeev Kumar was appointed as a Clerk/ Conductor on daily waged basis. This order is dated 7-3-1977.

From this evidence, it appears that Shri Sanjeev Kumar was appointed as a Conductor on daily wages and thereafter his services were regularised and was put on probation but before he was confirmed or could complete the probation period his services were terminated *vide* order Ex-P-1 dated 12-8-1980.

The petitioner has contended that he has been retrenched and has not been paid his dues nor has been served the retrenched notice and therefore the dispensing with the services by the management is illegal, void and not operative and that he must be deemed to be in service in spite of order Ex-P-1. I find merit in this contention.

The terms "retrenchment" has been defined in Section -2(OO) of the Industrial Dispute Act, 1947 as under:—

"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) Voluntary retirement of the workman, or

- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf, or
- (c) termination of the service of a workman on the ground of continued ill-health.

The bare reading of the definition specifically the expression "termination of services for any reason whatsoever" used in the definition covers any kind of termination of services except those mentioned in clauses (a), (b) and (c). The retrenchment has to be effective by following the prescribed procedure. The relevant Sections are Sections-25-F. of the Industrial Disputes Act, 1947.

In the present case, the services of Sanjeev Kumar have been retrenched. He has not been given any notice nor he has been paid his wages in lieu of notice or with notice as is required under the provisions of section 25-F. of the Industrial Disputes Act, 1947. The termination of his services is therefore, invalid.

It has been contended on behalf of Regional Manager, Himachal Road Transport Corporation, Nahan that Sanjeev Kumar Petitioner was on probation and his services could be terminated during the period of probation if he was not found fit for unsuitable for the job. Certain rules of service governing the condition of Sanjeev Kumar have been referred to and indicated in the reply of Regional Manager, Himachal Road Transport Corporation, Nahan. But the Regional Manager can not escape that Sanjeev Kumar has put in more than 240 days service and his services could not be terminated and he is entitled to the protection provided to a workman under the Industrial Disputes Act, 1947. His services can not be terminated or dispensed with when he is a daily waged worker or a worker on Muster-rolls or a temporary worker or a worker on probation. Otherwise the following and complying the provision of Section 25-F of Industrial Disputes Act, 1947. This view finds support in various Supreme Court Rulings. Some of which are reported as AIR SC 1982 SC-1150, AIR 1982, SC 854, AIR 1980 SC 1219, (1983) HLLJ-377, (1982) ILLJ-330.

In view of these considerations, the order Ex-P-1 passed by the Regional Manager, H.R. T. C., Nahan dispensing with the services of Sanjeev Kumar Petitioner is illegal, invalid, void and inoperative. Sanjeev Kumar Petitioner would be deemed to be in service inspite of this order. He is entitled to all the service benefits including pay and allowance, leave, Provident Fund, Seniority etc, etc. I decide this issue accordingly in favour of Petitioner and against the Respondent Management.

Issue No. 2.—In view of the decision on issue No. 1 no separate decision need be recorded on this on this issue. It has already been observed that Sanjeev Kumar will be deemed to be in service inspite of order Ex-P-1 and he is entitled to all the benefits. The issue is accordingly decided in favour of the Petitioner and against the respondent.

Relief.—In the result, reference made to this Court is answered in the affirmative. The services of Sanjeev Kumar have been terminated illegally. The order Ex-P-1 dated 12-8-1980 is not in accordance with law, and is in fact not in order in the eye of law. Inspite of this order, Sanjeev Kumar is to be deemed to be in service and is entitled to all the benefits including the pay, allowance, leave, Provident Fund, Seniority, confirmation and promotion etc. etc. However, I leave the parties to bear their own costs of these proceedings.

Announced on the 13th November, 1983.

Sd/-
(S. S. KANWAR),
Presiding Officer,
Labour Court, Himachal Pradesh
13-11-1983.

**BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HIMACHAL
PRADESH SHIMLA-171002**

Case No. 3/83

Himachal Gun Workers Union, Mandi

...Petitioner.

Versus

1. Management of M/s Hesbee and Company, Mandi
2. M/s Prem Sagar and Sons, Mandi,
3. M/s Cousin Brothers Gun Manufacturers, Mandi
4. M/s Vir Singh and Co. Mandi.

Respondents.

Present: Shri P. S. Dogra AR of the Petitioners.
Shri V. K. Gupta AR of the Respondents.

AWARD

There is dispute with respect to the dearness allowance and Compensatory allowance between the Managements of M/s Hesbee and Company, Mandi, M/s Prem Sagar and Sons, Mandi, M/s Cousin Brothers Gun Manufacturers, Mandi and M/s Vir Singh and Company, Mandi and their workers. All these firms are gun manufacturers located at Mandi. The workers have claimed increase in the dearness allowance and compensatory allowance. The reference to this dispute has been made to this tribunal *vide* notification No. 8-8/80- Sharn, dated 14-2-1983. The following question has been referred:—

“Whether the increase of Dearness allowance and Compensatory allowance to the employees of Gun Factories at Mandi *viz.* M/s. Hesbee and Co. M/s. Prem Sagar and Sons, M/s. Cousin Bros. Gun Manufacturers and Vir Singh and Company are allowed according to the Consumer Price index of industrial workers and climatic and other factor respectively, and to what extent. If not, the relief they are entitled in this respect.”

The parties have put in their claim petitions. From the averments of the parties, the following issues arose and were framed by me on 5-6-1983:—

1. What is the consumer price index of Industrial Workers involved in the present reference by taking into consideration of climatic and other factors. OPP.
2. To what increase if any in the dearness allowance, the workers are entitled from the respective management. OPP.
3. Whether this Tribunal has no jurisdiction to entertain this reference. OPP.
4. Whether Gun Workers Union is registered under the Trade Union Act. If not to what effect. OPP.
5. Whether the demands of the petitioner workers are bound by law of limitation. OPP.
6. Whether the provisions of Rules-13 (Himachal Pradesh) of Industrial Disputes Act are mandatory. If so, to what effect. DPR.
7. Relief.

On 25-9-1983, when the statements of the witnesses of the Petitioners were being recorded, the parties obtained adjournment for settlement of dispute out of Court.

To-day, the parties informed me that they have arrived at a settlement. I have recorded the statements of the Authorised Representatives of the Respondent Managements and Shri Ashok Kumar a partner of M/s. Prem Sagar and Sons Respondent. The statement of the AR of the petitioners, Tek Singh, President of the Gun Workers Union, Mandi and Shri Jaswant Singh Vice President of Gun Workers Union, Mandi, have also been recorded.

I am satisfied that the parties have arrived at a lawful compromise. I find no necessity to hold further proceedings. According to the compromise, each of the workers of the managements will be entitled to dearness allowance at the rate of Rs. 10/- per month from 1-10-1982. Each of the workers of the aforesaid managements will, further, be entitled to the increase of dearness allowance to the extent of Rs. 20/-per month w. e. f. 1-10-83. Thus each of the workers will be entitled to get dearness allowance which they are already getting plus Rs. 10/- from 1-10-82. Each workers will further be entitled to another increase of Rs. 20/-per month w. e. f. 1-10-1983. This increased Dearness allowance will be payable to each of the workers of the aforesaid management by or before 31-12-1983.

This settlement by the increase in the dearness pay twice covers all the disputes between the parties including the demand of workers for the payment of compensatory allowance. The parties have further agreed that the workers will not demand any increase in their emoluments in any other shape or form till 31-12-1984.

In view of this settlement, the reference is answered as indicated above. The issues framed on 5-6-1983 need not be decided. The Respondent Management are to make the payment of the increased dearness allowance by or before 31-12-1983. The award will take time for its publication. Before it is published un-attested copies of this award may be given to the parties, so that they may calculate the amount due to each of the workers who are entitled to receive the payment by or before 31-12-1983. The parties are left to bear their own costs of these proceedings.

Announced on the 13th day of November, 1983.

Sd/-
(S.S. KANWAR)
Presiding Officer Industrial Tribunal,
Himachal Pradesh
13-11-1983.

By order,
Sd/-
Financial Commissioner-cum-Secretary.

